

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

CELSIUS HOLDINGS, INC.,

Plaintiff,

v.

ENIVA USA, INC.,

Defendant.

Civil Action No. _____

DEMAND FOR JURY TRIAL

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Celsius Holdings, Inc., by its undersigned counsel, hereby brings the present declaratory judgment action against Eniva USA, Inc. and alleges as follows:

NATURE OF THE ACTION

1. Celsius Holdings, Inc. (“Celsius”), is a global, functional nutrition and lifestyle company widely known for producing the premium lifestyle CELSIUS energy drink.

2. The CELSIUS energy drink is a better-for-you alternative to traditional, sugary energy drinks. It comes in a variety of refreshing flavors, is prominently branded with the CELSIUS name, °C logo, slim white can, black top, and information band, among other Celsius branding elements, and is wildly popular—currently ranked the #3 energy drink in the United States.



3. On January 14, 2025, in an article titled “The U.S. Government Runs on Celsius. Just Ask Anyone on Capitol Hill,” the *Washington Post* reported on the popularity of Celsius’s beverages, describing them as “ubiquitous” on “the Hill.” A true and correct copy of this article is attached as **Exhibit 1**.

4. Celsius credits its success to building and supporting a community of people who are dedicated to living an active and healthy lifestyle, as well as its focus on ingredients that provide functional benefits to consumers. CELSIUS-branded beverages contain no sugar, aspartame, high fructose corn syrup, artificial flavors, or artificial colors. Rather, they contain a proprietary blend of ingredients such as ginger, guarana, and green tea, that help CELSIUS-branded beverages accelerate consumers’ metabolic rates when combined with exercise.

5. Celsius produces five core product lines, including its popular CELSIUS VIBE line of energy drinks and drink powders branded under marks including ARCTIC VIBE, ASTRO VIBE, COSMIC VIBE, FANTASY VIBE, GALAXY VIBE, OASIS VIBE, PEACH VIBE, PLAYA VIBE, RETRO VIBE, SUMMER VIBE, and TROPICAL VIBE, among others. Consumers seek out these flavors—and they know exactly what they

are buying—due to the popularity of CELSIUS energy drinks and Celsius’s highly distinctive branding, including its family of VIBE-formative trademarks.



6. Despite this, Defendant Eniva, a wellness company that sells dietary supplements, claims consumer confusion and damage from Celsius’s sales of these products. Eniva has engaged in overzealous and arbitrary enforcement actions against Celsius due to its success while largely foregoing enforcement against most other uses of “Vibe” in the marketplace, giving rise to an actual case or controversy between the parties. Representative images of the parties’ respective goods appear below:



7. On May 3, 2023, Eniva sent a cease-and-desist letter to Celsius with the subject line “*Trademark Infringement, Mark: VIBE*”. In this letter, Eniva demanded that Celsius discontinue its advertising, promotion, and sale of beverages branded under Celsius’s family of VIBE-formative trademarks due to Eniva’s sale of a liquid multivitamin sold under the “Vibe” name. A true and correct copy of Eniva’s May 3, 2023 letter is attached as **Exhibit 2**. In a later letter dated August 15, 2023, also titled “*Trademark Infringement, Mark: VIBE*”, Eniva reiterated its claims of trademark infringement and demanded again that Celsius cease using VIBE-formative marks. A true and correct copy of Eniva’s August 15, 2023 letter is attached as **Exhibit 3**.

8. When Celsius refused to comply with Eniva’s demands, Eniva commenced, on March 29, 2024, *seven* opposition proceedings against Celsius’s federal trademark applications for its VIBE-formative marks in the Trademark Trial and Appeal Board (“TTAB”). In each of Eniva’s First Amended Notices of Opposition filed May 24, 2024, Eniva alleges that Celsius’s *use* of its VIBE-formative marks is likely to cause consumer confusion “in the marketplace,” among other things. True and correct copies of Eniva’s First Amended Notices of Opposition are attached as **Exhibit 4**.

9. The parties’ dispute is ongoing. Eniva continues to allege that Celsius’s use of Celsius’s family of VIBE-formative trademarks in the market is causing damage to Eniva. Celsius is concerned that Eniva will file a federal trademark infringement lawsuit against it—particularly because the TTAB does not have jurisdiction over claims stemming from one’s *use* of a trademark. Eniva continues to prosecute its likelihood of confusion

claims in the TTAB while making demands, as recently as December 11, 2024, about Celsius's *use* of its marks, leaving Celsius mired in uncertainty over its ability to continue offering and expand its use of these marks and products. Most recently, Eniva filed an extension of time to oppose another of Celsius's federal trademark applications, this one for CELSIUS VIBE, with the TTAB. A true and correct copy of the TTAB's Order granting the extension of time is attached as **Exhibit 5**. This additional measure reinforces Celsius's concerns about the use and expansion of its trademark rights in connection with this product line. Accordingly, Celsius brings this action seeking the Court's declaration that Celsius's VIBE-formative marks do not infringe any valid and enforceable trademark held by Eniva.

PARTIES

10. Plaintiff Celsius Holdings, Inc. is a corporation organized and existing under the laws of Nevada, having its principal place of business at 2381 NW Executive Center Drive, Boca Raton, Florida 33431.

11. Upon information and belief, Defendant Eniva USA, Inc. is a corporation organized and existing under the laws of Minnesota, having a principal place of business at 2700 Campus Drive, Plymouth, Minnesota 55441.

JURISDICTION AND VENUE

12. This Court has jurisdiction over the subject matter of this action pursuant to Section 39 of the Trademark Act of 1946 (the "Lanham Act"), 15 U.S.C. § 1121, and under sections 1331, 1338(a), and 1338(b) of the Judicial Code, 28 U.S.C. §§ 1331, 1338(a), and 1338(b), as well as under the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202.

13. Count II seeks a declaration, pursuant to 15 U.S.C. § 1119, that Celsius is entitled to register its allowed and pending federal trademark applications that are the subject of Eniva's oppositions at the TTAB. Count I is so related to Count II that it forms part of the same case or controversy. Therefore, the Court has supplemental jurisdiction over Count II pursuant to 28 U.S.C. § 1367(a).

14. Defendant is subject to the personal jurisdiction of this Court because, among other things, Defendant is a corporation organized and existing under the laws of Minnesota and has its principal place of business in Minnesota.

15. Venue is proper in the United States District Court for the District of Minnesota pursuant to 28 U.S.C. § 1391(b)(1) because Defendant maintains its principal place of business in this judicial district.

FACTS

Celsius: Supporting a Healthy and Active Lifestyle Through Its VIBE-Formative Trademarks and Functional Beverages

16. Founded in 2004, Celsius is a functional nutrition and lifestyle company widely known for producing the highly popular premium lifestyle CELSIUS energy drink.

17. Celsius offers a better-for-you alternative to traditional energy drinks that are high in sugar and other ingredients. Its products include a wide variety of fruit-flavored beverages containing a proprietary blend of ingredients meant to boost consumers' energy levels and metabolic function when combined with exercise. Two of the company's well-known taglines are "LIVE FIT" and "Your Ultimate Fitness Partner."

18. Celsius attributes its success to its emphasis on natural, better-for-you ingredients and the performance benefits its products offer. Celsius's METAPLUS blend of ingredients is formulated to activate thermogenesis, a process that boosts one's metabolic rate to promote the burning of calories and body fat when combined with exercise. This blend, containing, among other things, ginger root, guarana seed extract, chromium, biotin, and green tea extract with a specific ratio of epigallocatechin gallate—the compound that scientists have found boosts metabolism—is backed by six published and peer-reviewed university studies.

19. Celsius produces five core product lines, including its CELSIUS VIBE line, a popular line of energy drinks and drink powders branded under the well-known trademarks ARCTIC VIBE, ASTRO VIBE, COSMIC VIBE, FANTASY VIBE, GALAXY VIBE, OASIS VIBE, PEACH VIBE, PLAYA VIBE, RETRO VIBE, SUMMER VIBE, and TROPICAL VIBE, among others. The products Celsius offers under its primary brand and house mark CELSIUS feature fruit-forward flavor profiles and balanced energy benefits to support and promote fitness and everyday wellness. The CELSIUS VIBE product line comprises beverages and powders embodying unique and refreshing flavor profiles that are multidimensional, immersive, and composed of a fusion of exotic flavors, as demonstrated in the product packaging shown below.



20. The CELSIUS VIBE product line originated in Sweden in 2018 with the idea to create a line of beverages with a lifestyle feeling or “vibe” that reached beyond the ingredients in the can. The first iteration of the CELSIUS VIBE line featured a white peach flavor that Celsius named PEACH VIBE, invoking a play on the phrase “beach vibe,” and launched in the U.S. market in 2020. Celsius launched additional CELSIUS VIBE names and flavor profiles including TROPICAL VIBE in 2021, ARCTIC VIBE in 2022, and OASIS VIBE in 2023.

21. Celsius sells the beverages comprising its CELSIUS VIBE line in 12 fluid ounce aluminum cans priced between \$2 and \$4 per unit. Celsius sells drinks powders as part of its CELSIUS VIBE line in boxes of 14 2.4 ounce packets priced between \$10 and \$12 per box.

22. To promote and embody the overarching concept of its CELSIUS VIBE product line, Celsius launched the ESSENTIAL VIBES TOUR in 2022. As part of this effort, Celsius partnered with musical festivals across the United States, including the

Breakaway Music Festival, CMA Fest, Coastal Country Jam, Boots in the Park, and All Things Go 2024, at which Celsius hosted workouts, tastings, artist meet-and-greets, and other events.

23. Celsius promotes its products prominently in the U.S. through billboard and print advertising, in-store sale displays, its website, and across its social media channels including by working with Brand Ambassadors who promote Celsius's products and messaging. Celsius also promotes its products by endorsing and sponsoring high profile events, athletes, and organizations such as Major League Soccer, NASCAR, and F1.

24. Celsius sought federal trademark registrations for its ESSENTIAL VIBES TOUR trademark in March 2022 and several of its VIBE-formative trademarks in May 2023. The following table summarizes the details of Celsius's VIBE-formative trademark filings (collectively, the "Celsius VIBE Applications"), all of which are currently pending at the United States Patent and Trademark Office ("USPTO"):

Mark	Serial No.	Filing Date	Goods/Services
ESSENTIAL VIBES TOUR	97302557	03/09/2022	<p>35: Organizing exhibitions for commercial or promotional purposes in the field of physical fitness, personal health, dietary and nutritional beverages, and dietary and nutritional supplements; Organizing roadshows, namely, organizing trade shows for business purposes in the field of physical fitness, personal health, dietary and nutritional beverages, and dietary and nutritional supplements</p> <p>41: Organizing educational conferences in the field of physical fitness, personal health, dietary and nutritional beverages, and dietary and nutritional supplements; Organizing exhibitions for educational purposes in the</p>

Mark	Serial No.	Filing Date	Goods/Services
			field of physical fitness, personal health, dietary and nutritional beverages, and dietary and nutritional supplements; Organizing business conferences in the field of physical fitness, personal health, dietary and nutritional beverages, and dietary and nutritional supplements
GALAXY VIBE	97936132	05/15/2023	32: Energy drinks; soft drinks; sports drinks; non-alcoholic carbonated beverages; Guarana-based drinks and beverages; fruit flavored drinks
COSMIC VIBE	97936133	05/15/2023	
OASIS VIBE	97936136	05/15/2023	
FANTASY VIBE	97936137	05/15/2023	
ARCTIC VIBE	97936142	05/15/2023	
TROPICAL VIBE	97936143	05/15/2023	
PEACH VIBE	97936144	05/15/2023	
ASTRO VIBE	98227860	10/17/2023	
PLAYA VIBE	98468213	03/26/2024	
RETRO VIBE	98468223	03/26/2024	
CELSIUS VIBE	98641225	07/10/2024	25: Clothing, namely, shirts, jerseys, hoodies, clothing jackets, vests, sports bras, sweatshirts, pants, shorts, skirts, dresses, sweatpants, and sweatsuits; footwear; hats; headwear
CELSIUS VIBE	98641251	07/10/2024	41: Organization of music and art festivals for cultural or entertainment purposes; Entertainment, namely, live music concerts
CELSIUS VIBE	98641259	07/10/2024	5: Powdered nutritional supplement drink mix; dietary and nutritional supplements; homeopathic supplements; herbal supplements 32: Energy drinks; soft drinks; sports drinks; non-alcoholic carbonated beverages; guarana-based drinks and beverages; fruit flavored drinks; powders for making energy drinks; drinking water

Mark	Serial No.	Filing Date	Goods/Services
WHAT'S YOUR VIBE?	98646254	07/12/2024	25: Clothing, namely, shirts, jerseys, hoodies, clothing jackets, vests, sports bras, sweatshirts, pants, shorts, skirts, dresses, sweatpants, and sweatsuits; footwear; hats; headwear
WHAT'S YOUR VIBE?	98646274	07/12/2024	41: Organization of music and art festivals for cultural or entertainment purposes; Entertainment, namely, live music concerts
WHAT'S YOUR VIBE?	98861752	11/19/2024	32: Non-alcoholic carbonated beverages; non-alcoholic water-based beverages; energy drinks; vitamin-fortified non-alcoholic beverages; sports drinks; soft drinks; non-alcoholic cocktails; mineral and aerated waters; drinking water; sparkling water; bottled water; fruit beverages and fruit juices; guarana-based drinks and beverages; syrups and other preparations for making non-alcoholic beverages, including tablets and powders for making non-alcoholic beverages
APRES VIBE	98874102	11/26/2024	
SPRITZ VIBE	98874174	11/26/2024	
ESSENTIAL VIBES	98882732	12/03/2024	25: Clothing; footwear; hats; headgear
SUMMER VIBE	98929022	12/30/2024	32: Non-alcoholic carbonated beverages; non-alcoholic water-based beverages; energy drinks; vitamin-fortified non-alcoholic beverages; sports drinks; soft drinks; non-alcoholic cocktails; mineral and aerated waters; drinking water; sparkling water; bottled water; fruit beverages and fruit juices; guarana-based drinks and beverages; syrups and other preparations for making non-alcoholic beverages, including tablets and powders for making non-alcoholic beverages

True and correct copies of the status reports for the Celsius VIBE Applications from the USPTO's Trademark Status & Document Retrieval ("TSDR") system are attached as **Exhibit 6**.

25. Celsius also owns a federal trademark registration for the mark ESSENTIAL VIBES TOUR, U.S. Registration No. 7,587,470, claiming use in connection with “organization of music and art festivals for cultural or entertainment purposes; entertainment, namely, live music concerts” in International Class 41. A true and correct copy of the Registration Certificate and the status report from the USPTO’s TSDR system demonstrating the valid and subsisting nature of the ESSENTIAL VIBES TOUR registration are attached as **Exhibit 7**.

Defendant Eniva

26. Upon information and belief, Defendant Eniva was founded in 1998. It manufactures and sells nutritional and dietary vitamins and supplements.

27. Eniva appears to offer a line of daily liquid multivitamins under the name “Vibe”.

28. According to Eniva’s website, it offers six different iterations of “Vibe” liquid multivitamins—VIBE Original, VIBE Apple, VIBE Fusion, VIBE Collagen, VIBE Fruit & Veggie, and VIBE Kids. A true and correct copy of Eniva’s website reflecting the above is attached as **Exhibit 8**.

29. Upon information and belief, Eniva sells its goods under the “Vibe” name in 32 ounce plastic bottles priced between \$50 and \$80 per unit.

30. Eniva is the record owner of U.S. Registration No. 3,014,557 for VIBE claiming use in connection with a “blended liquid mineral and vitamin nutritional dietary supplement” in International Class 5 since at least as early as August 1, 2003.

The Dispute

31. Eniva first contacted Celsius via a letter from its counsel sent May 3, 2023. *See Exhibit 2.* In the letter, entitled “***Trademark Infringement, Mark: VIBE***,” Eniva asserted that Celsius’s use of VIBE-formative marks in connection with energy drinks is likely to cause consumer confusion, mistake, and deception with Eniva’s “Vibe”-branded liquid multivitamins. Without further explanation of the scope of its trademark rights or its claims against Celsius, Eniva demanded that Celsius discontinue offering beverages under “the VIBE mark and any mark similar thereto.”

32. On June 16, 2023, counsel for Eniva sent a follow-up letter to Celsius’s trademark counsel. This letter also featured the subject line “***Trademark Infringement, Mark: VIBE***.” A true and correct copy of this letter is attached as **Exhibit 9**.

33. Celsius responded by letter on July 14, 2023. A true and correct copy of the response letter is attached as **Exhibit 10**. In the letter, Celsius declined to comply with Eniva’s demands, rebutted any claimed likelihood of confusion, and questioned the scope of Eniva’s asserted trademark rights. In particular, Celsius: (1) demonstrated the weakness of Eniva’s mark; (2) articulated the differences in the parties’ marks and the goods on which they are used; and (3) pointed to the lack of any actual consumer confusion.

34. Eniva sent a response letter on August 15, 2023, also entitled “***Trademark Infringement, Mark: Vibe***.” *See Exhibit 3.* Eniva expressed its disappointment over Celsius’s refusal to “discontinue use of the VIBE mark in connection with its line of fruit flavored energy and fitness drinks.”

35. On September 6, 2023, Celsius responded to Eniva's letter and again refused to comply with Eniva's demands. A true and correct copy of this letter is attached as **Exhibit 11**.

36. Rather than responding to Celsius's last letter, Eniva filed seven opposition proceedings against Celsius's pending trademark applications for the ARCTIC VIBE, ASTRO VIBE, COSMIC VIBE, FANTASY VIBE, GALAXY VIBE, OASIS VIBE, and PEACH VIBE marks at the TTAB on March 29, 2024. *See Exhibit 4*. In each proceeding, Eniva asserted, among other things, that Celsius's use and registration of each VIBE-formative mark would damage Eniva and that likelihood of confusion is fostered by Celsius's "use" of a large family of compound marks containing the term VIBE, "including ARCTIC VIBE, ASTRO VIBE, COSMIC VIBE, FANTASY VIBE, GALAXY VIBE, OASIS VIBE, PEACH VIBE and TROPICAL VIBE." All of these proceedings, which were recently consolidated, are ongoing.

37. Eniva has complained about Celsius's actual and prospective use of its VIBE-formative marks via correspondence to Celsius as recently as December 11, 2024.

38. Even more recently, on March 14, 2025, Eniva filed an extension of time to oppose Celsius's federal trademark application for CELSIUS VIBE, continuing its pattern of opposing Celsius's registration of these marks.

39. Given the success of the CELSIUS VIBE product line, Celsius has continued to invest in the promotion and expansion of its goods sold and services rendered under the VIBE-formative marks. In fact, Celsius currently markets and sells energy drinks under

VIBE-formative marks not subject to the consolidated TTAB proceeding, including RETRO VIBE and PLAYA VIBE.

Celsius's VIBE-Formative Trademarks Are Associated with Celsius and Do Not Infringe

40. Contrary to the assertions in Eniva's cease-and-desist letters and subsequent Notices of Opposition filed with the TTAB, no likelihood of confusion exists between Eniva's "Vibe" mark as used in connection with its liquid multivitamins, on the one hand, and Celsius's VIBE-formative marks as used in connection with its energy drinks, on the other hand.

41. Eniva lacks the broad trademark rights it purports to enforce against Celsius.

42. There are numerous third parties that use and/or have registered marks comprised of or containing the term "VIBE", including for supplements and beverages, with which Eniva has long co-existed. As a result, consumers are accustomed to discerning between such marks based on even minute distinctions between them.

43. For example, there are 2,400 active federal trademark applications and registrations for "VIBE"-formative marks. Of these, over 180 are in International Classes 5 and 32, which cover supplements and soft beverages.

44. Listed below are a few examples of the numerous third-party uses of "VIBE"-formative marks in the United States for Class 5 and 32 goods:

- a. SOUL VIBE for dietary supplement drinks, used by Zaca Pet Opco LLC;
- b. EVIBE for dietary and nutritional supplements, used by Healthfix Technologies, LLC;

- c. HIGHVIBE SILVER for dietary and nutritional supplements, used by Holistic Pet Care LLC;
- d. BALANCED VIBE for nutritional supplements, used by Balanced Vibe, LLC;
- e. LINKVIBE for dietary supplements, used by Parker Hall;
- f. ISLAND VIBES for fruit drinks and juices, used by Eve Sales Corp;
- g. COCOVIBE for coconut water beverages, used by Coco Fountain, LLC;
- h. HI-VIBE for juices, used by Hi-Vibe Holdings, Inc.;
- i. BOOST YOUR VIBES. for tea and caffeinated drinks, used by Fountain of Youth Beverages, LLC; and
- j. RAISE YOUR VIBE for sparkling water, used by Petal Beverage, LLC.

True and correct copies of webpages reflecting the use of the marks above are attached as **Exhibit 12.**

45. On information and belief, none of the aforementioned third parties are affiliates or subsidiaries of Defendant. On information and belief, Defendant has not protested, opposed, or otherwise objected to any of the aforementioned third-party uses of “VIBE”.

46. Each of Celsius’s VIBE-formative marks differs from Eniva’s “Vibe” mark in sight, sound, and meaning given, for example, Celsius’s use of an additional term in the first position of each of its marks. The differences between the parties’ marks are even more obvious when viewed in the context of the marketplace, where consumers are presented with the parties’ disparate labeling, branding, packaging, and marketing. The

prominent use of Celsius's other trademarks and trade dress on the packaging and promotional materials for its goods bearing the VIBE-formative marks further underscores the differences between the parties' goods and renders confusion impossible.

47. Through the use of additional wording in connection with VIBE (e.g., PEACH VIBE) and the contrasting product packaging demonstrated in the images of the parties' products above, Celsius's uses of VIBE in its VIBE-formative marks creates a significantly different overall commercial impression than Eniva's use of "Vibe".

48. Eniva's liquid multivitamins and nutritional and dietary supplements are not sufficiently related to Celsius's products to support a likelihood of confusion. Consumers do not expect the parties' goods to emanate from a single source.

49. The parties' respective goods are marketed and offered to different consumers through different channels of marketing and trade. On information and belief, Eniva's consumers are interested in more traditional mineral and vitamin supplements, whereas Celsius's consumers seek out alternatives to traditional energy drinks that provide functional benefits to those with active and exciting lifestyles. This contrast is clear from the parties' respective marketing, examples of which appear below.

Eniva



Celsius





50. Eniva’s “Vibe” mark and certain of Celsius’s VIBE-formative marks have coexisted in the marketplace since at least as early as 2020 without confusion. Celsius is unaware of a single instance of actual consumer confusion, and Eniva has not alleged any such actual confusion in its letters to Celsius or Notices of Opposition.

51. Through Eniva’s series of cease-and-desist letters enforcing its purported trademark rights against Celsius’s use of its VIBE-formative marks, Celsius has developed a reasonable apprehension of a trademark infringement lawsuit. The risk to Celsius has created uncertainty regarding its right to use and expand its use of its VIBE-formative marks and taglines. As a result, Celsius requests a declaration from this Court that it does not infringe Eniva’s alleged “Vibe” trademark.

CLAIMS FOR RELIEF

COUNT I: DECLARATORY JUDGMENT OF TRADEMARK NON-INFRINGEMENT

52. Celsius repeats and realleges paragraphs 1–51 above, as if fully set forth herein.

53. An actual controversy exists between the parties with respect to Celsius's use of its VIBE-formative marks and Eniva's asserted rights in its alleged "Vibe" mark.

54. There is no likelihood of confusion between Celsius's VIBE-formative marks, used in connection with energy drinks and powders, and Eniva's alleged "Vibe" mark, used in connection with liquid multivitamins and nutritional and dietary supplements.

55. Celsius has not infringed Eniva's "Vibe" mark.

56. Celsius therefore seeks and is entitled to a declaration that its use of its VIBE-formative marks does not (a) infringe or violate any existing and valid trademark or other right of Defendant under any state statute or common law rights; (b) violate Section 32 of the Lanham Act, 15 U.S.C. § 1114(a); or (c) violate Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

**COUNT II:
DECLARATION OF ENTITLEMENT TO TRADEMARK REGISTRATION**

57. Celsius repeats and realleges Paragraphs 1–56 above, as if fully set forth herein.

58. Celsius owns the Celsius VIBE Applications enumerated in Paragraph 24 above, including the ARCTIC VIBE, ASTRO VIBE, COSMIC VIBE, FANTASY VIBE, GALAXY VIBE, OASIS VIBE, PEACH VIBE, and CELSIUS VIBE applications (the "Opposed Applications") that are the subject of Eniva's consolidated Opposition No. 91290655 or extension of time to oppose request.

59. Eniva owns U.S. Registration No. 3,014,557 for VIBE in connection with “blended liquid mineral and vitamin nutritional dietary supplement” in International Class 5. In the consolidated Opposition No. 91290655, Eniva asserts its registration for VIBE against the Opposed Applications, alleging a likelihood of confusion based primarily on “the nearly identical use of Opposer’s VIBE Mark as the predominate portion of [Celsius’s] ARCTIC VIBE Mark” Eniva repeats this allegation for each of the marks covered by the Opposed Applications.

60. As alleged *supra*, the registration and use of the marks covered by the Opposed Applications do not create a likelihood of confusion with Eniva or Eniva’s products bearing the term “Vibe”.

61. Celsius therefore seeks an Order, pursuant to 15 U.S.C. § 1119, that it is entitled to register the Opposed Applications (and any future VIBE Applications that Eniva opposes).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Celsius respectfully requests that the Court issue the following relief:

A. A declaration that Celsius’s use of the term VIBE in its VIBE-formative marks does not infringe or violate any existing and valid trademark or other rights of Eniva under any state statute or common law rights, does not constitute false association or false endorsement, does not falsely designate the origin of either party’s goods or services, and does not constitute unfair competition in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114(1)(a), and/or Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

B. An Order, pursuant to 15 U.S.C. § 1119, directing the Commissioner of the United States Patent and Trademark Office to allow the Opposed Applications to proceed to registration.

C. A declaration that no likelihood of confusion exists as between Celsius's use of VIBE in connection with its energy drinks and powders and Eniva's use of "Vibe" in connection with liquid multivitamins and dietary and nutritional supplements; that Plaintiff is the "prevailing party" in this action within the meaning of 15 U.S.C. § 1117(a); and that this is an "exceptional" case within the meaning of 15 U.S.C. § 1117(a).

D. An Order granting Celsius such other and further relief as this Court may deem just and proper.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury of all issues so triable.

Dated: March 20, 2025

FISH & RICHARDSON P.C.

By: /s/ Madison Murhammer Colon

Madison Murhammer Colon (MN Bar #
0402914)

FISH & RICHARDSON P.C.

60 South 6th Street, Suite 3200

Minneapolis, Minnesota 55402

(612) 335-5070

murhammer_colon@fr.com

Kristen McCallion (*pro hac vice* pending)

Vivian Cheng (*pro hac vice* pending)

Jessica Cohen-Nowak (*pro hac vice*
pending)

FISH & RICHARDSON P.C.

7 Times Square, 20th Floor

New York, NY 10036

(212) 765-5070

mccallion@fr.com

cheng@fr.com

cohen-nowak@fr.com

Nathan C. Ranns (*pro hac vice*
forthcoming)

Megha Bansal (*pro hac vice* forthcoming)

FISH & RICHARDSON P.C.

1000 Maine Ave. SW

Washington, DC 20024

(202) 783-5070

ranns@fr.com

bansal@fr.com

Attorneys for Celsius Holdings, Inc.